

Surface Mining Reclamation and Enforcement, Interior

§ 934.15

PART 934—NORTH DAKOTA

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 45 FR 82246, Dec. 15, 1980, unless otherwise noted.

§ 934.1 Scope.

This part contains all rules applicable only within North Dakota that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 934.10 State program approval.

The North Dakota State Program, as submitted on February 29, 1980, and amended and clarified on June 12, 1980 and September 9, 1980, is conditionally approved, effective December 15, 1980. Beginning on that date, PSC shall be deemed the regulatory authority in North Dakota for all surface coal mining and reclamation operations and for all exploration operations where more than 250 tons of coal are removed on non-Federal and non-Indian lands and the North Dakota Geological Survey shall be deemed the regulatory authority in North Dakota for all exploration operations where less than 250 tons of coal are removed on non-Federal and non-Indian lands. Only surface mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the North Dakota permanent regulatory program. Copies of the approved program, together with copies of the letter of the

Public Service Commission agreeing to the conditions in § 934.11, are available at:

(a) North Dakota Public Service Commission, Reclamation Division; State Capitol Building; Bismarck, ND 58505-0165; Telephone: (701) 224-4096.

(b) Office of Surface Mining, 100 East "B" Street, Casper, Wyoming 82601-1918, telephone: (307) 261-5824.

[45 FR 82246, Dec. 15, 1980, as amended at 57 FR 826, Jan 9, 1992; 57 FR 37706, Aug. 20, 1992]

§ 934.12 State program amendments disapproved.

The following provision of an amendment to the North Dakota permanent regulatory program, as submitted to OSMRE on February 10, 1987, and modified on August 18, 1987, and December 14, 1987, is hereby disapproved: Paragraph (c)(4) of the North Dakota Administrative Code, Article 69-05.2-12-05.1, which would have established separate financial criteria for self-bonding by rural electric cooperatives.

[53 FR 2840, Feb. 2, 1988. Redesignated at 55 FR 1819, Jan. 19, 1990]

§ 934.13 State program provisions set aside.

North Dakota regulation NDAC 69-05.2-27-01 is inconsistent with Federal provisions for permitting and bonding of research projects and is set aside under the provisions of section 505(b) of the Surface Mining Control and Reclamation Act of 1977.

§ 934.15 Approval of North Dakota regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
July 30, 1982	February 9, 1983, November 9, 1983.	NDCC Chapter 38–14.1; subsection 5 of § 38–14.1–02, definitions of “extended mining plan,” “performance bond;” 38–14.1–03; subsection 3 of § 38–14.1–07, 13; subdivision “u” of subsection 1 of § 38–14.1–14; subdivision “n” of subsection 2 of § 38–14.1–14; § 38–14.15; subsection 3 of § 38–14.1–20; subsections 17, 18 of § 38–14.1–24; subsection 4 of § 38–14.1–30; § 38–14.1–38; Chapter 38–12.1; subdivision b of § 1 of § 38–12.1–04; Chapter 38–18; subsection 3 of § 38–18–05, definition of “mineral developer;” subsection 6 of § 38–18–05, definition of “mineral owner;” subsection 10 of § 38–18–05, definition of “surface owner;” subsection 3 of § 38–18–06; § 38–18–07; NDAC 69–05.2, Chapter 69–05.2–01, 05 through 19, 21, 22, 23, 26; NDCC § 38.12.1–03.
February 2, 1984	July 19, 1984	NDAC §§ 38–14–1.02(33)(a), 04.1, .2, .3, 13(1)(b), 24(1)(1); §§ 69–05.2–05–03, 69–05.2–09–18, 69–05.2–13–12.1 through .6, 69–05.2–16–04.
February 27, 1984	January 3, 1985	NDAC §§ 69–05.2–01–02, definition of “blaster” and renumbering of §; 69–05.2–17–01; 69–05.2–31.
June 18, 1985	February 18, 1986 ..	NDCC 38–14.1–04.2, .3, –7, –10, –14, –21, –30, –33; NDAC 69–05.2–04–01, –06–02, –08–03, –09–02, –08, –09, –10–03, –16–09.
May 30, 1986	October 21, 1986 ...	NDAC 69–05.2–01–02 (11), (12), definitions “coal preparation,” “coal preparation plant,” “coal processing plant,” 08–05(2)(c)(5), –09–19, –13–13, –15–01, –02, –03(2), –04, –16–04(1)(b), –09(22), –15–01, –21–03.
September 8, 1986 ...	December 9, 1986 ..	NDAC 69–05.2–12–20.
April 3, 1987	November 16, 1987	NDCC 38–14.1–16(2), (7), –17(7).
February 10, 1987	February 2, 1988	NDAC 69–05.2–12, –13–04, –23.
June 1, 1988	March 10, 1989	Amendment X, “Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre-and Post- mining Vegetation Assessments”.
April 11, 1989	August 4, 1989	NDCC 38–14.1–37, –39.
November 1, 1988	January 19, 1990 ...	NDAC 69–05.2, 2–01 through –31.
November 20, 1990 ..	January 9, 1992	NDCC 28–32–02(3), (4); NDAC 69–05.2–01–02, –03(4), (5), (7), –04–01(5)(b), –05–06(1), (1d), –06–01–02(3) through (6), –08–05(2), (2C), (2e), –09(3b), –15–09–01(4), –06(1), (2), –09(1)(c)(7–8), (1)(e), (2)(c through e), (h), –17(1), (2), –19(1), –10–03, –05(3a, e), –11–03, –12–01(4), (10), –12(3), –18, –20, –13–08(2) through (6), –12(4), –13, –15–04(4)(a)(2)(c), –16–03, –07(2a), –09(9), (17), (18), (20), –12(1), –14(3), –20, –17–01(2), –05(1), –18–01, –12(f), –20–03(1b, d), (3), –22–07(4)(e) through (i), –23–01, –24–01–09, –25–03(2), (4), –26–05, (3), –28–03, (7), 16 through 18.
June 12, 1991, November 19, 1991.	August 20, 1992	NDCC 38–12.1–03–2.b, –05–2.d; 38–14.1–02–33.a, –24.13.a, –30.3.c through g(1), (2); NDAC 43–02–01–18.1, –20; 69–05.2–01–01–3, –05–08, –08–01, –02; 69–05.2–08, –10.1a, –12; –09–04, –09, –10, –11, –14, –17, –10–02, –11–01.5, 02, –12–01, –05 through –08, –12–11, –12, –14, –16, –13–06, –08, –14–01, –15–02, –16–04, –06, –12, –22–07, –25–03, –04; 69–05.2–32, –32–01.1.b.
April 21, 1993	March 15, 1994, July 22, 1994.	NDAC 69–05.2–06–02(3), –09–01(4), –10–03(1), (1)(a), (4), –13–02(4)(e), –08(3) through (6), –15–04(3), –16–09 (13), (14), (16), –20–03(3), (4); NDCC 38–14.1–21(5), –24(13)(e), –37(2), (a) through (f), (3) through (6); 38–12.1–04(1)(a); 43–02–01–05, –20.3(c)(2); 43–02–01–05.
October 22, 1993	July 22, 1994	NDAC 69–05.2–17–02, –29–01(2), –02(1)(a), (b), –03(2), (5), –04, –05, –06(1)(a), –07(1), –08(1)(a) through (e), (2).
November 10, 1994 ..	April 13, 1995	NDAC 69–05.2–04–07(3)(a), –05–09, –06–01(2), –02(6), –10–03(5), –11–01(1)(d), –03(5)(c), –06(1)(c), –12–09(2), –15–02(2a), –16–09(7), (20), –21–01(2), –28–03(6).
February 17, 1994	July 14, 1995	Policy document entitled “Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments”.
March 20, 1996	April 28, 1997	NDAC 69–05.2–09–02.8 –13–02, –15–04.4a(2)c, –19–04.2, 3, –22–07.3.c, 4.d, 4.i, –26–05.3.c; 69–05, 22–07.4.j, .k; changes to new names of U.S. Natural Resource Conservation Service and the North Dakota Department of Health.
May 2, 1997	August 25, 1997	NDCC 38–14.1–04.1, .2, .3.
April 12, 1995	September 16, 1998	Statute: NDCC 38–14.1–37(4); NDCC 38–12.1–08; Rule: NDAC 43–02–01.
April 9, 1998	January 8, 1999	Revegetation Success Policy Doc. II–C, Prime Farmlands standards. II–F, Woodlands cover standards. II–H, Wetlands standards. II–I, Recreational land use standards for tree and shrub stocking. III–D, Methods for sampling woodland cover.
August 29, 1997	March 16, 1999	Rules: NDAC 69–05.2–13–01; NDAC 69–05.2–22–07.4.1; NDAC 69–05.2–28–19.
March 31, 1999	July 20, 1999	NDCC 38–14.1–30.3.f.
September 2, 1998 ...	November 8, 1999 ..	NDAC 69–05.2.90 NDAC 69–05.2–01–03 NDAC 69–05.2–05–09 NDAC 69–05.2–09–09 NDAC 69–05.2–13–02 NDAC 69–05.2–13–08 NDAC 69–05.2–15–02 NDAC 69–05.2–15–04 NDAC 69–05.2–16–09 NDAC 69–05.2–19–04

Surface Mining Reclamation and Enforcement, Interior

§ 934.25

Original amendment submission date	Date of final publication	Citation/description
June 20, 2000	March 2, 2001	NDAC 69-05.2-01-03; NDCC 28-32 NDAC 69-05.2-09.15.8 NDAC 69-05.2-10-03.6.c NDAC 69-05.2-12-09 NDAC 69-05.2-12-12.2 NDAC 69-05.2-16-05 NDAC 69-05.2-22-07.4.1 NDAC 69-05.2-26-05.3 NDAC 69-05.2-29-03
March 16, 2000	May 17, 2001	Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.

[62 FR 9948, Mar. 5, 1997, as amended at 62 FR 22894, Apr. 28, 1997; 62 FR 44900, Aug. 25, 1997; 63 FR 49434, Sept. 16, 1998; 64 FR 1130, Jan. 8, 1999; 64 FR 12900, Mar. 16, 1999; 64 FR 38827, July 20, 1999; 64 FR 60659, Nov. 8, 1999; 66 FR 13020, Mar. 2, 2001; 66 FR 27459, May 17, 2001]

§ 934.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), North Dakota is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with North Dakota's established administrative or legislative procedures.

(a)-(cc) [Reserved]

[53 FR 2840, Feb. 2, 1988, as amended at 54 FR 10145, Mar. 10, 1989; 55 FR 1819, Jan. 19, 1990; 57 FR 827, Jan. 9, 1992; 59 FR 11933, Mar. 15, 1994; 59 FR 37431, July 22, 1994; 60 FR 18745, Apr. 13, 1995; 60 FR 36223, July 14, 1995; 62 FR 22895, Apr. 28, 1997; 63 FR 49434, Sept. 16, 1998; 64 FR 1130, Jan. 8, 1999; 64 FR 60660, Nov. 8, 1999]

§ 934.20 Approval of North Dakota abandoned mine plan.

The North Dakota Abandoned Mine Plan as submitted on July 28, 1981, is

approved. Copies of the approved program are available at:

Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, WY 82601-1918; Telephone: (307) 261-5776.

North Dakota Public Service Commission, Abandoned Mine Land Division, State Capitol, Bismarek, ND 58505; Telephone: (701) 224-4096.

[57 FR 33116, July 27, 1992]

§ 934.25 Approval of North Dakota abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
March 4, 1983	June 24, 1983	Definition of reclamation terms; right of entry; land acquisition, management, and disposition; other policies and procedures.
September 15, 1987	June 16, 1988	Revision of administrative and management structure of the approved North Dakota Plan.
October 31, 1991	July 27, 1992	NDCC 38-14.2-04, -06.
May 25, 1993	September 27, 1993	Emergency response reclamation program; set-aside trust funds, eligible lands.
September 20, 1995	October 8, 1996	NDCC 38-14.2-03(14); Public Service Commission Procurement and Contract Procedures; PSC policies Nos. 2-01-81(5), 2-02-81(5); PSC organizational structure.

[62 FR 9949, Mar. 5, 1997]